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June 6, 2012

BY E-FILING

The Honorable Gregory M. Sleet
United States District Court
844 King Street
Wilmington, DE 19801

Re: MOSAID Technologies Inc. v. Adobe Systems, Inc.,
C.A. No. 11-698 (GMS)

Dear Chief Judge Sleet:

We represent defendant Alcatel-Lucent USA, Inc. ("ALU"), and write in response to Plaintiff MOSAID's May 17, 2012 letter regarding the motions pending before the Court. Initially, ALU agrees that the only motion mooted by the recent settlements is former defendant Juniper's Motion to Transfer. (D.I. 64).

With respect to MOSAID's statements regarding consolidation of "discovery and trial," any consideration of consolidation, especially for trial, is premature. Although the issues of misjoinder and severance of this action have been briefed in two pending motions, Plaintiff's Motion for Leave to Amend (D.I. 39) and Defendants' Motion to Sever or Dismiss for Improper Joinder Pursuant to Fed. R. Civ. P. 20(a)(2) and 21 (D.I. 87), no issues relating to consolidation have been briefed. Nor could they have been, as the scope of this litigation will inevitably depend on the outcome of the pending motions and MOSAID's claims asserted against each defendant.

MOSAID's reference to the consolidation language from *In re EMC Corp.*, simply ignores the effect of 35 U.S.C. § 299 and the America Invents Act (the "AIA"). 2012 WL 1563920 (Fed. Cir. 2012) (expressly not considering the effect of 35 U.S.C. § 299). Defendants, in their motion papers, have asserted that the AIA precludes, *inter alia*, a single trial. (D.I. 65, 88 & 91). Indeed, the recent settlements further demonstrate the applicability of the AIA to this action, as MOSAID did not assert *any* of the claims against either defendant until *after* the enactment of the AIA.

The Honorable Gregory M. Sleet

June 6, 2012

Page 2

Respectfully,

/s/ Jack B. Blumenfeld

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JBB/dlb

cc: Clerk of the Court (*by hand delivery*)
Counsel of record (*by e-mail*)

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